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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,389	09/28/2001	Mark Kirkpatrick	BS01-290	2348

45695 7590 08/15/2006

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EXAMINER
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RAMAKRISHNAIAH, MELUR

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

## Application No.

09/964,389

## Applicant(s)

KIRKPATRICK, MARK

## Examiner

Melur Ramakrishnaiah

## Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-10,12-14 and 16-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-10,12-14 and 16-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1-4-05</u> . | 6) <input type="checkbox"/> Other: _____  |

### ***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-28 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 09/964,385 and claims 1-20 of copending Application No. 10/101,630. Although the conflicting claims are not identical, they are not patentably distinct from each other because all the claimed limitations, i.e., a battery and sound generating device, are transparently found in the copending Application No. 09/964,385 and copending Application No. 10/101,630 with obvious wording variations. See the example of claim 1 of the present application, copending Application No. 09/964,385 and copending application No. 10/101,630 as set forth in the office action dated 9-16-2005

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5-6 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stone (US PAT: 5,767,778) in view of Suzuki et al. (US PAT: 6,556,665, filed 7-9-1999, hereinafter Suzuki).

Regarding claim 5, Stone discloses a device (31, figure 4) for a wireless communication device (32, figure 4) that plays alerts, the device comprising a shell (13, figure 3) attachable between a wireless communications device body (11 figure 3) and a wireless communications device battery (12, figure 3), an alert generating device (38, figure 4) inside the shell and (42, figure 40) for storing a plurality of alert files, wherein the alert comprising memory generating device is triggered by an electrical signal from the wireless communication device (32, figure 4) to play an alert associated with the alert file upon detection of incoming communication by the wireless communications device, an external connector socket (43, figure 4) on the shell in electrical communication with the alert generating device to provide external access for adding alert files, deleting alert files and editing alert files ( note: this process is implied as the reference teaches user programmable alert sounds memory which can be manipulated

by personal computer, col. 7 lines 10-31) in the alert generating device and a selector, i.e., a mode switch, on the shell for designating a file to use as an audio alert (col. 4 line 13 through col. 5 line 35 and col. 7 lines 10-31).

Stone differs from claim 5 in that he does not specifically teach to play the alert associated with the alert file upon detection of an event at the wireless communication device other than an incoming communication.

However, Suzuki discloses portable telephone set which teaches the following: to play the alert associated with the alert file upon detection of an event at the wireless communication device other than an incoming communication (col. 1 lines 45-49, col. 2 lines 1-16, col. 4 lines 15-23).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Stone's system to provide for the following: to play the alert associated with the alert file upon detection of an event at the wireless communication device other than an incoming communication as this arrangement would facilitate providing alert sounds for the user for other events as taught by Suzuki, thus facilitating additional function for the portable/wireless telephone, thus enhancing user convenience.

Regarding claim 6, the limitations of the claim are rejected for the same reasons as set forth in the rejection of claim 5.

Regarding claim 21, Stone discloses a computer readable medium containing instructions that when executed by a processor of a wireless device perform acts, wherein the cellular telephone includes a cellular telephone body (32, figure 4) for

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generating an electrical signal, a cellular telephone battery (30, figure 4) for powering the cellular telephone body, an audio signal device (31, figure 4) connectable with the cellular telephone body and the cellular telephone battery, including a sound generating device (38, figure 4), memory (42, figure 4), and a selector device (41, figure 4), comprising the acts of storing a plurality of sound files in memory, receiving input from the selector device, designating a file of the plurality to use as an alert signal by manipulating the selector on the audio signal device and alerting a user with the alert signal of the designated file in response to the electrical signal generated by the body (abstract and col. 4 line 13 through col. 5 line 35 and col. 7 lines 10-31).

Stone differs from claim 21 in that although he discloses generating response to an incoming telephone call (col. 4, line 66 –col. 5, line 5); he does not specifically teach generating signal in response to an event at the wireless device other than incoming telephone call.

However, Suzuki teaches the following: generating signal in response to an event at the wireless device other than incoming telephone call (col. 1 lines 45-49, col. 2 lines 1-16, col. 4 lines 15-23).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Stone's system to provide for the following: generating signal in response to an event at the wireless device other than incoming telephone call as this arrangement would facilitate providing alert sounds for the user for other events as taught by Suzuki, thus facilitating additional function for the portable/wireless telephone, thus enhancing user convenience.

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5. Claims 1-3, 7-10, 12-14, 16-20 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stone in view of Haraguchi (US PAT: 6,597,279) and Suzuki.

Regarding claim 1, Stone discloses a device (31, figure 4) that plays alerts and is used with a wireless communications device (32, figure 4), the device comprising: a substantially rectangular planar shell having electrical terminals (14b and 15c, figure 3) on one side that are electrically connectable to electrical terminals (14a and 15a, figure 3) on a wireless communications device, and an alert generating device (38, figure 4) located inside the shell and electrically connected to the electrical connectors of the planar shell, comprising memory (42, figure 42) for storing an alert file, wherein the alert generating device is triggered to play an alert associated with the alert file upon detection of incoming communication by the wireless communications device (col. 4 line 13 through col. 5 line 35 and col. 7 lines 10-31). In addition, Stone teaches a selector device, i.e., a mode switch, on the rectangular planar shell for determining the type of auxiliary alert to be generated (col. 5 lines 10-25 and col. 7 lines 16-20). Stone differs from the claimed invention in not specifically teaching the selector device for scrolling through the plurality of sound files and designating a sound file to use as an audio alert signal; to play alert associated with the file upon detection of an event at the wireless communication device other than an incoming communication. However, Haraguchi teaches a simplified method for setting an incoming tone to be output from a speaker when a signal is received by an operation comprising a jog dial for scrolling through the plurality of sound files and desiring a sound file to use as an audio alert signal (col. 5 lines 16 through col. 6 line 34) in order to simplify the operation of setting the incoming

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tone; Suzuki teaches the following: to play alert associated with the file upon detection of an event at the wireless communication device other than an incoming communication (col. 1 lines 45-49, col. 2 lines 1-16, col. 4 lines 15-23). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the selector device of Stone for scrolling through the plurality of sound files and designating a sound file to use as an audio alert signal, as per teaching of Haraguchi, because it makes user friendly by simplifying the operation of setting the incoming tone; and Stone's system to provide for the following: to play alert associated with the file upon detection of an event at the wireless communication device other than an incoming communication as this arrangement would facilitate providing alert sounds for the user for other events as taught by Suzuki, thus facilitating additional function for the portable/wireless telephone, thus enhancing user convenience.

Regarding claim 2, Stone discloses the alert generating device being a sound generating device (col. 7 lines 13-14), wherein the alert file is a sound file and the alert is an audio alert (col. 7 lines 26-28), and wherein the sound generating device stores a plurality of sound files, and wherein each sound file can be designated as an audio alert signal for the telephone (col. 7 lines 28-31).

Regarding claim 3, Stone teaches an external connector socket in electrical communication to provide external access to the plurality of sound files in the sound generating device (col. 7 lines 2 1-23).

Regarding claim 7, Stone discloses a wireless communications device system having changeable alert signals, the system comprising a wireless communications



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device body (11, figure 3) a wireless communications device battery (12, figure 3) for powering the wireless communications device body; and an alert signal device (31, figure 4) connectable with the wireless communications device body and the wireless communications device battery, including an alert generating device (38, figure 4) comprising memory (42, figure 4) for storing an alert file, wherein the alert generating device is triggered to play an alert associated with the alert file upon detection of incoming communication by the wireless communication device (col. 4 line 13 through col. 5 line 35 and col. 7 lines 10-31). In addition, Stone teaches a selector device, i.e., a mode switch, on the rectangular planar shell for determining the type of auxiliary alert to be generated (col. 5 lines 10-25 and col. 7 lines 16-20. Stone differs from the claimed invention in not specifically teaching the selector device for scrolling through the plurality of sound files and designating a sound file to use as an audio alert signal; triggering to play the alert upon detection of an event at the wireless communication device other than an incoming communication. However, Haraguchi teaches a simplified method for setting an incoming tone to be output from a speaker when a signal is received by an operation comprising a jog dial for scrolling through the plurality of sound files and designating a sound file to use as an audio alert signal (col. 5 lines 16 through col. 6 line 34) in order to simplify the operation of setting the incoming tone; Suzuki teaches the following: triggering to play the alert upon detection of an event at the wireless communication device other than an incoming communication (col. 1 lines 45-49, col. 2 lines 1-16, col. 4 lines 15-23). Therefore, it would have been obvious to a person of

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ordinary skill in the art at the time the invention was made to modify the selector device of Stone for scrolling through the plurality of sound files and designating a sound file to use as an audio alert signal, as per teaching of Haraguchi, because it makes user friendly by simplifying the operation of setting the incoming tone; to modify Stone's system to provide for the following: triggering to play the alert upon detection of an event at the wireless communication device other than an incoming communication as this arrangement would facilitate providing alert sounds for the user for other events as taught by Suzuki, thus facilitating additional function for the portable/wireless telephone, thus enhancing user convenience.

Regarding claim 8, Stone teaches the following: alert generating device is a sound generating device, wherein the alert file is sound file, wherein alert is a sound, wherein sound generating device stores the plurality of sound files that are capable of added, deleted and edited (note: this process is implied as the reference teaches user programmable alert sounds memory which can be manipulated by personal computer, col. 7 lines 10-31).

Regarding claims 9-10, Stone teaches an external connector socket (43, figure 4) in electrical communication to provide external access to the plurality of sound files in the sound generating device such that a computer system includes an electrical plug connected to the sound generating device through the connector socket for adding, deleting and editing the plurality of sound files by adding or deleting from the sound generating device ( note: this process is implied as the reference teaches user

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programmable alert sounds memory which can be manipulated by personal computer, col. 7 lines 10-31).

Regarding claim 12, Stone teaches the alert generating device being a sound generating device (col. 7 lines 13-14), wherein the alert file is a sound file and the alert is an audio alert (col. 7 lines 26-28), and wherein the sound generating device stores a plurality of sound files that are capable of being edit (col. 7 lines 18-23).

Regarding claims 13-14, the limitations of the claims are rejected as the same reasons set forth in claims 9-10.

Regarding claims 16 and 17, Stone discloses the system comprising an external connector, i.e., accessing means (43, figure 4), on the audio signal device in electrical communication with the sound generating device to provide external access to the plurality of sound files in the sound generating device, a computer system, i.e., programming means, having an electrical plug electrically connected to the sound generating device through the connector socket, for editing the plurality of sound files by adding and deleting sound files ( note: this process is implied as the reference teaches user programmable alert sounds memory which can be manipulated by personal computer, col. 7 lines 10-31) sound generating device, and a selector device, i.e., selecting means (41, figure 4) on the audio signal device for designating a sound file to use as an audio alert signal (col. 5 lines 10-25 and col. 7 lines 10-31).

Regarding claim 18, Stone discloses a method of programming designated alert signals on a wireless communication device comprising the steps of providing an alert signal device (31, figure 4) for use with a wireless communication device (32, figure 4),

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the alert signal device including a programmable alert generating device (38, figure 4) and an external socket (43, figure 4) located on an outside surface, connecting a computer system containing software that can access the alert generating device to the external socket of the audio alert signal device, accessing the alert generating device, adding or deleting an alert file via the computer onto or from the alert generating device, respectively (col. 4 line 13 through col. 5 line 35 and col. 7 lines 10-31). In addition, Stone teaches a selector device, i.e., a mode switch, on the rectangular planar shell for determining the type of auxiliary alert to be generated (col. 5 lines 10-25 and col. 7 lines 10-31). In addition, Stone teaches a selector device, i.e., a mode switch, on the rectangular planar shell for determining the type of auxiliary alert to be generated (col. 5 lines 10-25 and col. 7 lines 16-20) so that one skill in the art would recognize the selector device located on the outside surface, playing the sound file upon detection of incoming call at the wireless communication device (fig. 3, col. 4, line 66 – col. 5, line 17). Stone differs from the claimed invention in not specifically teaching the selector device for scrolling through the plurality of sound files and designating a sound file to use as an audio alert signal; playing the sound file upon detection of event at the wireless communication device other than the incoming communication. However, Haraguchi teaches a simplified method for setting an incoming tone to be output from a speaker when a signal is received by an operation comprising a jog dial for scrolling through the plurality of sound files and designating a sound file to use as an audio alert signal (col. 5 lines 16 through col. 6 line 34) in order to simplify the operation of setting the incoming tone; and Suzuki teaches the following: playing the sound file upon

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detection of event at the wireless communication device other than the incoming communication (col. 1 lines 45-49, col. 2 lines 1-16, col. 4 lines 15-23). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the selector device of Stone for scrolling through the plurality of sound files and designating a sound file to use as an audio alert signal, as per teaching of Haraguchi, because it makes user friendly by simplifying the operation of setting the incoming tone; modify Stone's system to provide for the following: playing the sound file upon detection of event at the wireless communication device other than the incoming communication as this arrangement would facilitate providing alert sounds for the user for other events as taught by Suzuki, thus facilitating additional function for the portable/wireless telephone, thus enhancing user convenience.

Regarding claim 19, Stone teaches that the computer system is a PC, which is inherently including a personal data assistant (col. 7 lines 21-23).

Regarding claim 20, Stone discloses a method of selecting a designating alert signals on a wireless communication device (32, figure 4) comprising the steps of providing an alert signal device (31, figure 4) for use with a wireless communications device (32, figure 4), the alert signal device including a programmable alert generating device (38, figure 4) and a selector (41, figure 4) located on an outside surface, wherein the alert generating device includes a plurality of alert files, and selecting a selected alert from the plurality of alert files when a designated alert filed is reached (col. 4 line 13 through col. 5 line 35 and col. 7 lines 10-31), playing the sound file upon detection of an incoming call (fig. 3 col. 4, line 66 – col. 5, line 17). Stone differs from the claimed

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invention in not specifically teaching the step of scrolling through the plurality of sound files with the selector to experience the plurality of alert file; playing a sound file upon detection of an event at the wireless communications device other than an incoming communication. However, Haragucti teaches a simplified method for setting an incoming tone to be output from a speaker when a signal is received by an operation comprising a jog dial for scrolling through the plurality of sound files and designating a sound file to use as an audio alert signal (col. 5 lines 16 through col. 6 line 34) in order to simplify the operation of setting the incoming tone and Suzuki teaches the following: playing a sound file upon detection of an event at the wireless communications device other than an incoming communication (col. 1 lines 45-49, col. 2 lines 1-16, col. 4 lines 15-23) . Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Stone in scrolling through the plurality of sound files with the selector to experience the plurality of alert file, as per teaching of Haraguchi, because it makes user friendly by simplifying the operation of setting the incoming tone; and modify Stone's system to provide for the following: playing a sound file upon detection of an event at the wireless communications device other than an incoming communication as this arrangement would facilitate providing alert sounds for the user for other events as taught by Suzuki, thus facilitating additional function for the portable/wireless telephone, thus enhancing user convenience.

Regarding claims 22-24, Stone discloses that the wireless device is a cellular telephone (24 figure 4), the alert is a sound(col.7 liens 13-14) and the incoming communication is a telephone call (col. 2 lines 9-23).

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6. Claims 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stone in view of Haraguchi, Suzuki and Sawada et al. (US PAT: 6,810,274, hereinafter Sawada).

Regarding claim 25, Stone discloses a device (13, figure 3) that plays alerts and is used with a wireless communications device (11, figure 3), the device comprising a planar shell having electrical terminals (14b and 15b, figure 3) on one side that are electrically connectable to electrical terminals (14a and 15a, figure 3) on a wireless communications device, and an alert generating device (38, figure 4), located inside the shell and electrically connected to the electrical connectors of the planar shell, comprising memory (42, figure 4) for storing an alert file, wherein the alert generating device is triggered to play an alert associated with the alert file upon detection of an incoming communication by the wireless communications device. In addition, Stone teaches a selector device, i.e., a mode switch, on the rectangular planar shell for determining the type of auxiliary alert to be generated (col. 5 lines 10-25 and col. 7 lines 16-20). Stone differs from the claimed invention in not specifically teaching the selector device for scrolling through the plurality of sound files and designating a sound file to use as an audio alert signal; and to play the alert (such as designated file) upon detection of event at the wireless communication device other than an incoming communication. However, Haraguchi teaches a simplified method for setting an incoming tone to be output from a speaker when a signal is received by an operation comprising a jog dial for scrolling through the plurality of sound files and designating a sound file to use as an audio alert signal (col. 5 lines 16 through col. 6 line 34) in order

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to simplify the operation of setting the incoming tone; Suzuki teaches the following: to play the alert (using a designated file) upon detection of event at the wireless communication device other than an incoming communication (col. 1 lines 45-49, col. 2 lines 1-16, col. 4 lines 15-23). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the selector device of Stone for scrolling through the plurality of sound files and designating a sound file to use as an audio alert signal, as per teaching of Haraguchi, because it makes user friendly by simplifying the operation of setting the incoming tone; modify Stone's system to provide for the following: to play the alert (using a designated file) upon detection of event at the wireless communication device other than an incoming communication as this arrangement would facilitate providing alert sounds for the user for other events as taught by Suzuki, thus facilitating additional function for the portable/wireless telephone, thus enhancing user convenience. Furthermore, neither Stone nor Haraguchi, nor Suzuki specifically teaching the alert generating device comprising a memory receiving slot for adding new alert signal from a second memory positioned within the memory receive slot. However, Sawada teaches a battery pack (2, figure 1) supplying the portable telephone unit (1, figure 1) with electrical power having a removable IC card having semiconductor memory (3, figure 1) and an audio device (38, figure 8) having a memory receiving slot (5, figure 2) for adding new alert signals from a second memory positioned within the memory receiving slot (col. 3 lines 16-24 and col. 4 line 60 through col. 5 line 10) in order to reduce size. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Stone in having



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the alert generating device further comprising the memory receiving slot for adding new alert signal from a second memory positioned within the memory receive slot, reduces size of the device as per teaching of Sawada, because it reduces size of the device.

Regarding claim 26, Stone discloses that the wireless device is a cellular telephone (32, figure 4), the alert is a sound (col.7 lines 13-14) and the incoming communication is a telephone call (col. 2 lines 9-23).

Regarding claim 27, the limitations of the claim are rejected as the same reasons as set forth in claim 25.

Regarding claim 28, the limitations of claim are rejected as the same reasons as set forth in claim 26.

### ***Response to Arguments***

Applicant's arguments filed on 6-5-2006 have been fully considered but they are not persuasive.

Interview Summary: In connection with interview summary conducted on 5-31-2006 relating to applicant claims, Applicant argues that "Further it was discussed that the Stone reference did not appear to disclose how an alarm could be generated, in addition to incoming communication, given that the disclosed mechanism for triggering an audio activation was an analog current transient resulting from an incoming call. It was noted that in contrast Suzuki discloses an alarm triggered by an alarm clock in association with a CPU. It was further noted that there is no current draw mechanism disclosed in Suzuki when the clock reached its alarm point available to trigger the CPU, such as CPU in the Shell in Stone if modified. As such, modifying Stone to support

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signaling other than by an increased current draw in anticipation of alarm would be an impermissible change in principle of operation of Stone, namely, audio activation via increased current draw due to incoming call". Regarding this argument, Applicant specification on page 7, discloses the following: the designated audio alert also may be used for other notifications alarms that are available on the cellular telephone, such as appointment alarms and the like (page 7, last three lines of the last paragraph). Since applicant has not set forth how he is generating alert sound in connection with appointment alarms, it is conceivable that applicant might be generating alarm sounds in similar way as Suzuki. Further Suzuki implicitly discloses: in case when it is used as an alarm sound, a predetermined time is set as in case of alarm clock. When predetermined time comes, the CPU 302 reads the predetermined audio signal out of the memory 303 to generate alarm sound (col. 4 lines 14-17). From this it is clear that alarm clock has to generate a signal such a current signal to alert CPU to initiate alarm signal when predetermined alarm set time comes. In view of this, it is feasible to modify Stone by using teachings of Suzuki to arrive at applicants claim limitation such as generating alert sound for other than incoming call.

Further, In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant's arguments regarding double patenting rejection are considered, but as noted in the office action above, it is only provisional double patenting rejection and therefore it is maintained.

### 103 Rejections

Claims 5-6 and 21 stand rejected under 35 USC 103(a) as being unpatentable over Stone et al (US Pat 5,767,778) in view of Stlzuki (US Pat. 6,556,665). Claims 1-3, 7-10, 12-14, 16-20 and 22-24 stand rejected under 35 USC 103(a) as being unpatentable over Stone in view of Haraguchi ( US Pat. 6,597,279) and Suzuki. Claims 25-28 stand rejected under 35 USC 103(a) as being unpatentable over Stone in view of Haraguchi, Suzuki and Sawada (US Pat 6,810,274):

Regarding rejection of claim 1, Applicant argues that "Stone does not discloses a means to play an alert upon detection of an event at the wireless communication device other than incoming communication. Particularly, Stone does not discuss generating an alert sound when there is no power or current transient. Suzuki discloses an alarm sound as the result of an alarm clock reaching a predetermined time. When the ...Suzuki does not discloses a current or power surge triggering the alert when the clock reaches the predetermined tome, merely a digital clock count. Given the different alarm mechanisms ... such a modification would impermissibly change the primary principle of operation of Stone". Regarding this argument, as already discussed in connection with interview summary, Suzuki implicitly discloses: in case when it is used as an alarm sound, a predetermined time is set as in case of alarm clock. When predetermined time comes, the CPU 302 reads the predetermined audio signal out of

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the memory 303 to generate alarm sound (col. 4 lines 14-17). From this it is clear that alarm clock has to generate a signal such a current signal to alert CPU to initiate alarm signal when predetermined alarm set time comes. In view of this, it is feasible to modify Stone by using teachings of Suzuki to arrive at applicants claim limitation such as generating alert sound for other than incoming call.

Regarding applicant's amended claims 5, 8, and 10, Applicant argues that Neither Stone, nor Suzuki teach or disclose or suggest providing external access to alert file in the alert generating device for editing the alert files, where editing the alert file is necessarily something other than adding or deleting since claims lists adding and deleting in addition to editing. Since Applicant's specification only mentions the following: an optional connector socket allows a user to edit, add or delete sound files stored in the sound generating device (paragraph 0008 of applicants specification) without further elucidation about edit feature, Stone reference still reads on applicant's amended claims 5, 8, and 10 because Stone teaches an external connector socket (43, figure 4) on the shell in electrical communication with the alert generating device to provide external access for adding alert files, deleting alert files and editing alert files ( note: this process is implied as the reference teaches user programmable alert sounds memory which can be manipulated by personal computer, col. 7 lines 10-31) and further deleting and adding sound files also constitute a form of editing sound files.

**7. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

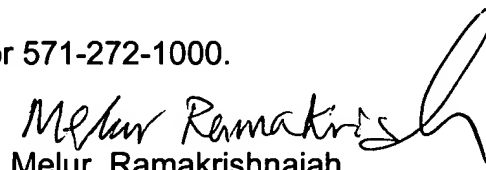
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (571)272-8098. The examiner can normally be reached on 9 Hr schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Melur Ramakrishnaiah  
Primary Examiner  
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